

IN THE HIGH COURT OF BOMBAY AT GOA**APPEAL UNDER ESI ACT NO. 01/2007.**

Employees State Insurance
Corporation, through its
Deputy Regional Director,
Panchadeep Bhavan,
EDC Plot No. 23,
Patto, Panaji, Goa.

....

Appellants.

Versus

Shri K. T. Somarajan,
son of Shri K. Thankappan,
Major, r/o House No. 455,
Christian Waddo,
Marcela, Tiswadi, Goa.

....

Respondent.

Mrs. A. A. Agni, Advocate for the Appellants.

Mr. N. K. Sawaikar, Advocate for the Respondent.

CORAM: S. A. BOBDE &

DATE: 12th APRIL, 2007.

ORAL JUDGMENT:

Admit.

2. Heard finally, by consent of the parties.

3. The only issue in this appeal is: Whether the Presiding Officer, ESIC, Panaji correctly sent the disablement question for decision by the Medical Board.

4. Mrs. Agni, the learned counsel for the appellants states that the Corporation disputes that the injury allegedly suffered by the respondent is an employment injury. According to the Corporation, it is not an employment injury and therefore Section 75(2-A) of the Act is not attracted and the disablement question need not be decided by the Medical Board.

5. Though the learned counsel for the respondent disputes the contention, he fairly accepts that this question namely “Whether it is an employment injury or not”, has not been gone into by the ESIC Court. Indeed, there is no consideration of this question.

6. In the circumstances, the appeal deserves to be allowed. The Order in Appeal dated 24th July, 2006 is hereby set aside. The matter is remanded back to the Employees Insurance Court, North Goa, for fresh decision, in accordance with law.

S. A. BOBDE, J.

sl.

